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named as Wells Fargo N.A. and America's Servicing Company)*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DIMITRITZA TOROMANOVA and
DAVID-WYNN:MILLER

Plaintiffs,

vs.

WELLS FARGO N.A., SOMA
FINANCIAL, MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS INC., AMERICA'S
SERVICING CO., NEVADA TITLE,
NATIONAL DEFAULT SERVICING
CORPORATION,

Defendants.

CASE NO. 2:10-cv-02080-KJD -PAL

DEFENDANT WELLS FARGO BANK,
N.A.'S MOTION TO DISMISS

Defendant Wells Fargo Bank, N.A., incorrectly named as "Wells Fargo N.A." and America's Servicing Company¹ ("Wells Fargo") moves to dismiss Plaintiffs' Complaint in its entirety with prejudice under FRCP 12(b)(6) and FRCP 8.

MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiff's Complaint must be dismissed because it is incomprehensible. The complaint does not comply with Rule 8 of the Federal Rules of Civil Procedure, which states that

A pleading that states a claim for relief must contain:

¹ America's Servicing Company is the doing business as name of the servicing division of Wells Fargo Bank, N.A.

(1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;

(2) a short and plain statement of the claim showing that the pleader is entitled to relief; and

(3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

FRCP 8(a).

Here, the Complaint does not contain any short and plain statements, but rather, is written in a form of language that is unintelligible to Wells Fargo. The failure to comply with FRCP 8(a) necessitates dismissal.

Additionally, a defendant is entitled to dismissal of a complaint when a plaintiff fails to state a claim upon which relief can be granted. FRCP 12(b)(6). To survive a motion to dismiss, "[f]actual allegations must be enough to raise a right to relief above the speculative level." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007). A complaint must be dismissed if it does not include "enough facts to state a claim to relief that is plausible on its face." Id.

To the extent the complaint contains any facts at all, it certainly does not include on its face enough facts to state any claims to relief, as Wells Fargo is unable to understand the statements in the complaint. Because the Complaint does not give Wells Fargo any notice as to the nature of the claims against it, the Complaint must be dismissed in its entirety with prejudice.

Dated: December 23, 2010

SNELL & WILMER, L.L.P.

By: /s/Cynthia L. Alexander
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CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing DEFENDANT WELLS FARGO BANK, N.A.'S MOTION TO DISMISS by method indicated below:

 X U.S. Mail
 Electronic Delivery
 Facsimile Transmission
 Federal Express

And addressed to the following:

Dimitritza Toromanova
David Wynn Miller
P.O. Box 19153
Las Vegas, NV 89132
Plaintiff Pro Se

Michael F. Bohn, Esq.
LAW OFFICES OF MICHAEL F. BOHN, ESQ., LTD.
1880 E. Warm Springs Rd., Ste. 110
Las Vegas, Nevada 89119
Attorney for Defendant Nevada Title Company

Dated this 23rd day of December 2010.


An employee of Snell & Wilmer L.L.P.

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